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# Commonwealth of Massachusetts.



In the Year One Thousand Eight Hundred and Forty-Six.

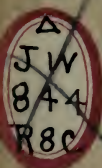
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## AN ACT

### To establish the City of Roxbury.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows :*

SECT. 1. The inhabitants of the Town of Roxbury shall continue to be a body politic and corporate, under the name of the City of Roxbury, and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to



all the duties and obligations, now incumbent upon and appertaining to said town as a Municipal Corporation.

SECT. 2. The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, shall be vested in one principal officer, to be styled the mayor; one council of eight, to be called the board of aldermen; and one council of twenty-four to be called the common council; which boards, in their joint capacity, shall be denominated the city council, and the members thereof shall be sworn to the faithful performance of the duties of their respective offices. A majority of each board shall constitute a quorum for doing business, and no member of either board shall receive any compensation for his services.

SECT. 3. It shall be the duty of the Selectmen of the Town of Roxbury, as soon as may be, after the passage of this act, and its acceptance by the inhabitants, as hereinafter provided, to divide said town into eight wards, as follows, to wit: *first*, by drawing a line between the second and third parishes, as near the old territorial parish line as may be convenient, and constituting the second parish one ward: *second*, by drawing a line in the same manner between the first and third parishes, and dividing the third parish into two wards, to contain, as nearly as may be convenient, an equal number of inhabitants, and, *third*, by dividing the first parish into five wards, as nearly equal in number of inhabitants as may be consistent with convenience in other respects.

And it shall be the duty of the City council, once in five years to revise, and if it be needful, to alter said wards in such manner as to preserve as nearly as may be, an equal number of voters in each ward; *provided, however*, that the second parish shall always constitute at least one ward, and the third parish shall constitute at least two wards without any addition of territory to either.

SECT. 4. On the second Monday in March, annually, there shall be chosen by ballot in each of said wards, a warden, clerk, and three inspectors of elections, residents of wards in which they are chosen, who shall hold their offices for one year, and until others shall have been chosen in their places, and qualified to act. It shall be the duty of such warden to preside at all ward meetings, with the powers of moderator of town meetings. And if at any meeting the warden shall not be present, the clerk of such ward shall call the meeting to order, and preside until a warden pro tempore shall be chosen by ballot. And if at any meeting the clerk shall not be present, a clerk pro tempore shall be chosen by ballot. The clerk shall record all the proceedings and certify the votes given, and deliver over to his successor in office all such records and journals, together with all other documents and papers held by him in said capacity. And it shall be the duty of the inspectors of elections, to assist the warden in receiving, assorting and counting the votes. And the warden, clerk and inspectors so chosen, shall respectively make oath or affirmation, faithfully and impartially to discharge their several duties, relative to all elections, which oath may be administered by the clerk of such ward, to the warden, and by the warden to the clerk and inspectors, or by any justice of the peace for the County of Norfolk.

All warrants for meetings of the citizens for municipal purposes, to be held either in wards or in general meetings, shall be issued by the Mayor and Aldermen, and shall be in such form, and shall be served, executed and returned in such manner, and at such times, as the city council may by any by-law direct.

SECT. 5. The mayor and eight aldermen, one alderman to be selected from each ward, shall be elected by the qualified voters of the city, at large, voting in their respective wards, and three common councilmen shall be elected from and by the voters of each ward, and shall be residents of the wards in which they are elected; all said



officers shall be chosen by ballot, and shall hold their offices for one year from the first Monday in April, and the mayor, until another shall be elected and qualified in his place.

SECT. 6. On the second Monday in March, annually, immediately after a warden, clerk, and inspectors shall have been elected and sworn, the qualified voters in each ward shall give in their votes for mayor, aldermen, and common councilmen, as provided in the preceding section; and all the votes so given, shall be assorted, counted, declared, and registered in open ward meeting, by causing the names of persons voted for, and the number of votes given for each, to be written in the ward records in words at length.

The clerk of the ward, within twenty-four hours after such election, shall deliver to the persons elected members of the common council, certificates of their election, signed by the warden and clerk, and by a majority of the inspectors of elections, and shall deliver to the City clerk a copy of the records of such election, certified in like manner: *provided, however*, that if the choice of common councilmen cannot be conveniently effected on that day, the meeting may be adjourned, from time to time, to complete such election.

The board of aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who may have been elected mayor, to be notified in writing of his election; but if it shall appear that no person has received a majority of all the votes, or if the person elected shall refuse to accept the office, the board shall issue their warrants for a new election, and the same proceedings shall be had as are herein before provided, for the choice of mayor, and repeated, from time to time, until a mayor is chosen.

In case of the decease, resignation or absence of the mayor, or of his inability to perform the duties of his office, it shall be the

duty of the board of aldermen and the common council in convention, to elect a mayor for the time being, to serve until another is chosen, or until the occasion causing the vacancy is removed.

And, if it shall appear that the whole number of aldermen have not been elected, the same proceedings shall be had, as are herein before provided for choice of mayor. Each alderman shall be notified in writing of his election, by the mayor and aldermen for the time being.

The oath prescribed by this act, shall be administered to the mayor by the City clerk, or any justice of the peace for the County of Norfolk.

The aldermen and common council men elect, shall, on the first Monday of April, at 10 o'clock in the forenoon, meet in convention, when the oath required by this act, shall be administered to the members of the two boards present, by the mayor, or by any justice of the peace for the County of Norfolk, and a certificate of such oath having been taken, shall be entered on the journal of the mayor and aldermen, and of the common council, by their respective clerks.

And whenever it shall appear that no mayor has been elected previously to the said first Monday in April, the mayor and aldermen for the time being, shall make a record of that fact; an attested copy of which, the City clerk shall read at the opening of the convention to be held as aforesaid.

After the oath has been administered as aforesaid, the two boards shall separate; and the common council shall be organized by the choice of a president and a clerk, to hold their office during the pleasure of the common council, and to be sworn to the faithful performance of their duties.

In case of the absence of the mayor elect, on the first Monday in April, the city government shall organize itself in the manner here-

in before provided, and may proceed to business in the same manner as if the mayor were present, and the oath of office may be administered to the mayor at any time thereafter, in a convention of the two branches.

In the absence of the mayor, the board of aldermen may choose a chairman pro tempore, who shall preside at joint meetings of the two boards.

Each board shall keep a record of its own proceedings, and judge of the elections of its own members ; and in failure of election, or in cases of vacancy, may order new elections. And in case of any such vacancy declared by either board, the mayor and aldermen shall order a new election.

SECT. 7. The mayor, thus chosen and qualified, shall be the chief executive officer of said city. It shall be his duty to be vigilant in causing the laws and regulations of the city to be enforced, and to keep a general supervision over the conduct of all subordinate officers, with power to remove them for neglect of duty. He may call special meetings of the boards of aldermen and common council, or either of them, when necessary in his opinion, by causing notices to be left at the places of residence of the several members ; he shall communicate, from time to time, to both of them, such information and recommend such measures, as in his opinion, the interests of the city may require ; he shall preside in the board of aldermen, and in convention of the two branches, but shall have only a casting vote.

The salary of mayor for the first year in which this charter shall take effect, shall be six hundred dollars, and no more ; his salary shall afterwards be fixed by the city council, but neither increased nor diminished during the year for which he is chosen, and he shall have no other compensation ; *provided, however,* that the city



council shall have power to appoint the mayor commissioner of highways, when in their opinion such an office is necessary, and allow him a suitable compensation therefor.

SECT. 8. The executive power of said city generally, and the administration of the police, with all the powers heretofore vested in the selectmen of Roxbury, shall be vested in the mayor and aldermen, as fully as if the same were herein specially enumerated.

And the mayor and aldermen shall have full and exclusive power to appoint a constable and assistants, or a city marshal and assistants, with the powers and duties of constables, and all other police officers ; and the same to remove at pleasure.

And the mayor and aldermen may require any person appointed a constable of the city, to give bonds with such security as they may deem reasonable, before he enters upon the duties of his office, upon which bonds the like proceedings and remedies may be had, as are by law provided in case of constables' bonds taken by the selectmen of towns.

And the mayor and aldermen shall have the same power to grant licenses to inn-holders, victuallers, and retailers within the city, which is possessed by the mayor and aldermen of the City of Boston.

The city council shall, annually, as soon after their organization as may be convenient, elect, by joint ballot in convention, a treasurer and collector of taxes, a chief engineer, a city clerk, and three assessors of taxes, and fix their compensations. They shall, also, in such manner as they shall determine, appoint or elect all other subordinate officers, for whose election or appointment other provision is not herein made, define their duties and fix their compensations.

All sittings of the common council shall be public, and all sittings of the mayor and aldermen shall also be public, when they are not engaged in executive business.

The city council shall take care that no moneys be paid from the treasury, unless granted or appropriated; shall secure a just and proper accountability by requiring bonds with sufficient penalties and sureties, from all persons trusted with the receipt, custody or disbursement of money; shall have the care and superintendence of the city buildings, with the power to let, or to sell what may be legally sold; and to purchase property, real or personal, in the name and for the use of the city, whenever its interest or convenience may, in their judgment, require it. And the city council shall, as often as once in a year, cause to be published, for the use of the inhabitants, a particular account of the receipts and expenditures, and a schedule of city property.

SECT. 9. In all cases in which appointments are directed to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, such nomination, however, being subject to be confirmed or rejected by the board of aldermen: *Provided, however,* that no person shall be eligible to any office of emolument, the salary of which is payable out of the city treasury, who, at the time of such appointment, shall be a member of the board of aldermen or of the common council.

SECT. 10. The city clerk shall also be clerk of the board of aldermen, and shall be sworn to the faithful performance of his duties. He shall perform such duties as shall be prescribed by the board of aldermen, and he shall perform all the duties, and exercise all the powers, by law incumbent upon, or vested in, the town clerk of the town of Roxbury. He shall be chosen for one year, and until another shall be chosen and qualified in his place, but may be at any time removed by the city council.

SECT. 11. The qualified voters of each ward, at their respective.



annual ward meetings for the choice of officers, shall elect by ballot one person in each ward to be an overseer of the poor, who shall be a resident of said ward, and the persons thus chosen, together with the mayor, shall constitute the board of overseers of the poor, and shall have all the powers and be subject to all the duties now by law appertaining to the overseers of the poor for the town of Roxbury.

The qualified voters shall, at the same time and in the same manner, elect three persons from the city at large, and two persons from each ward to be members of the school committee, and the persons thus chosen shall constitute the school committee, and have the care and superintendence of the public schools.

The qualified voters shall, at the same time and in like manner, elect one person in each ward to be an assistant assessor, who shall be a resident of said ward, and it shall be the duty of the persons so chosen to furnish the assessors with all necessary information relative to persons and property taxable in their respective wards, and they shall be sworn to the faithful performance of their duty.

And the persons to be chosen by the city council as assessors, shall constitute the board of assessors, and shall exercise the powers and be subject to the duties and liabilities of assessors in towns.

All taxes shall be assessed, apportioned, and collected in the manner prescribed by law relative to town taxes; *provided, however*, that it shall be lawful for the city council to establish further and additional provision for the collection thereof.

Should there fail to be a choice of overseers of the poor, members of the school committee, or assistant assessors, in any ward, the vacancy, or vacancies shall be filled by the city council in convention, in the same manner that is provided for filling vacancies in the Senate of this Commonwealth.

SECT. 12. The city council shall have exclusive authority and power to lay out any new street or town way, and to estimate the damages any individual may sustain thereby, but all questions relating to the subject of laying out, accepting, altering, or discontinuing any street or way, shall first be acted upon by the mayor and aldermen. And any person dissatisfied with the decision of the city council in the estimate of damages, may make complaint to the County Commissioners of the County of Norfolk, at any meeting held within one year after such decision, whereupon the same proceedings shall be had as are now provided by the laws of the Commonwealth in cases when persons are aggrieved by the assessment of damages by Selectmen, in the twenty-fourth chapter of the Revised Statutes.

SECT. 13. All power and authority now by law vested in the board of health for the Town of Roxbury, or in the selectmen of said town, shall be transferred to, and vested in the city council, to be carried into execution in such manner as the city council shall deem expedient.

SECT. 14. The city council shall have authority to cause drains and common sewers to be laid down through any streets or private lands, paying the owners such damage as they may sustain thereby : and to require all persons to pay a reasonable sum for the privilege of opening any drain into said public drain or common sewer.

And the city council may make by-laws with suitable penalties for the inspection, survey, measurement, and sale of lumber, wood, coal, and bark, brought into the city for sale.

SECT. 15. All fines, forfeitures and penalties, accruing for the breach of any by-law of the City of Roxbury, or of any of the ordinances of the city council, or of any of the orders of the mayor and

aldermen, may be prosecuted for and recovered, before any justice of the peace in said City of Roxbury, by complaint or information, in the name of the Commonwealth, in the same way and manner in which other criminal offences are now prosecuted before the justices of the peace within this Commonwealth ; reserving, however, in all cases to the party complained of and prosecuted, the right of appeal to the Court of Common Pleas, then next to be held in the County of Norfolk, from the judgment and sentence of any justice of the peace.

And the appeal shall be allowed on the same terms and the proceedings be conducted therein in the same manner as provided in the one hundred and thirty-eighth chapter of the Revised Statutes of this Commonwealth.

And it shall be sufficient, in all such prosecutions, to set forth in the complaint, the offence fully, plainly, substantially, and formally, and it shall not be necessary to set forth such by-law, ordinance or order, or any part thereof.

All fines, forfeitures, and penalties so recovered and paid, shall be paid to the treasurer of the City of Roxbury, and shall enure to such uses as said city council shall direct.

When any person, upon any conviction before a justice of the peace, for any breach of any by-law of said City of Roxbury, or any of the ordinances of the city council, or any of the orders of the mayor and aldermen, shall be sentenced to pay a fine, or ordered to pay any penalty or forfeiture, provided by any such by-law, ordinance, or order, or upon claiming an appeal, shall fail to recognize for his appearance at the court appealed to, and there to prosecute his appeal and to abide the sentence or order of the court thereon, and in the mean time to keep the peace and be of good behavior, and upon not paying the fine, penalty or forfeiture and costs so assessed upon him, he shall be committed to prison, there to remain



until he or she shall pay such fine, forfeiture, or penalty and costs, or be otherwise discharged according to law.

The provisions of this section shall also apply to all prosecutions founded on the by-laws or ordinances of the Town of Roxbury, which may continue in force after this act shall go into operation.

SECT. 16. It shall be the duty of the city council annually, in the month of October, to meet in convention and determine the number of representatives to be elected by the City to the General Court in such year, which shall be conclusive, and the number thus determined shall be specified in the warrant calling meetings for the election of representatives.

SECT. 17. All elections for County, State, and United States officers, who are voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections in their respective wards, at the time fixed by law for these elections respectively; and at such meetings all the votes, given for said several officers respectively, shall be assorted, counted, declared, and registered in open ward meeting, by causing the names of all persons voted for, and the number of votes given for each, to be written in the ward record in words at length. The ward clerk shall forthwith deliver to the city clerk, a certified copy of the record of such elections. The city clerk shall forthwith record such returns, and the mayor and aldermen shall within two days after every such election, examine and compare all said returns, and make out a certificate of the result of such elections, to be signed by the mayor and a majority of the aldermen, and also by the city clerk, which shall be transmitted or delivered in the same manner as similar returns are by law directed to be made by selectmen of towns. And in all elec-

tions for representatives to the General Court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the mayor and aldermen shall forthwith issue their warrant for a new election, conformably to the provisions of the Constitution, and the laws of the Commonwealth.

SECT. 18. Prior to every election, the mayor and aldermen shall make out lists of all the citizens of each ward qualified to vote in such elections, in the manner in which selectmen of towns are required to make out lists of voters; and for that purpose they shall have full access to the assessors' books and lists, and be entitled to the assistance of all assessors, assistant assessors, and city officers, and they shall deliver said lists, so prepared and corrected, to the clerks of said wards to be used at such elections; and no person shall be entitled to vote whose name is not borne on such list.

SECT. 19. General meetings of the citizens qualified to vote, may, from time to time, be held, to consult upon the public good; to instruct their representatives, and to take all lawful measures to obtain redress for any grievances, according to the right secured to the people by the Constitution of this Commonwealth. And such meetings may and shall be duly warned, by the mayor and aldermen, upon the requisitions of fifty qualified voters.

SECT. 20. For the purpose of organizing the system of government hereby established, and putting the same into operation in the first instance, the selectmen of the Town of Roxbury for the time being, shall, on some day during the months of March or April of the present year, issue their warrants seven days at least previous to the day so appointed for calling meetings of the said citizens at such place and hour as they may deem expedient, for the purpose of choosing a warden, clerk, and inspectors for each ward, and all

other officers whose election is provided for in the preceding sections of this act, and the transcripts of the records of each ward, specifying the votes given for the several officers aforesaid, certified by the warden and clerk of such ward at said first meeting, shall be returned to the said selectmen, whose duty it shall be to examine and compare the same, and in case said elections should not be completed at the first meeting, then to issue new warrants until such elections shall be completed; and to give notice thereof in the manner hereinbefore provided, to the several persons elected. And at said first meeting, any inhabitant of said ward, being a legal voter, may call the citizens to order, and preside until a warden shall have been chosen. And at said first meeting a list of voters in each ward, prepared and corrected by the selectmen for the time being, shall be delivered to the clerk of each ward, when elected, to be used as hereinbefore provided. And the selectmen shall appoint such time for the first meeting of the city council, as they may judge proper, after the choice of city officers as aforesaid, or a majority of the members of both branches, in the year one thousand eight hundred and forty-six, and shall also fix upon the place and the hour of said first meeting, and a written notice thereof shall be sent by said selectmen, to the place of abode of each of the city officers chosen as provided in this section. And after this first election of city officers, and this first meeting for the organization of the city council, as in this section is provided, the day of holding the annual elections, and the day and hour for the meeting of the city council, for the purpose of organization, shall remain as provided in the sixth section of this act.

And it shall be the duty of the city council, immediately after the first organization, to elect all necessary city officers, who shall hold their offices respectively until others are chosen and qualified, and at the meetings to be called, as prescribed in this section, for the choice of ward and city officers, the said inhabitants may, and



shall also give in their votes for county officers, which votes shall be recorded, certified and returned in the manner provided in the seventeenth section of this act.

SECT. 21. The city council shall have power to make all such salutary and needful by-laws, as towns, by the laws of this Commonwealth, have power to make and establish, and to annex penalties not exceeding twenty dollars, for the breach thereof, which by-laws shall take effect, and be in force, from and after the time therein respectfully limited, without the sanction of any court, or other authority whatever : *provided, however,* that all laws and regulations now in force in the town of Roxbury, shall, until they shall expire by their own limitation, or be revised or repealed by the city council, remain in force, and all fines and forfeitures for the breach of any by-law, or ordinance, shall be paid into the city treasury.

SECT. 22. The annual town meeting for the town of Roxbury, which by law is required to be held in the month of March or April, is hereby suspended, and all town officers now in office, shall hold their places until this act shall go into operation ; and in case this charter shall not be accepted in the manner and form as hereinafter provided, then the selectmen shall issue their warrant according to law, for holding the annual town meeting of the inhabitants, in which all the proceedings shall be the same as if this act had not been passed.

SECT. 23. All officers of the town of Roxbury having the care and custody of any records, papers, or property belonging to said town, shall deliver the same to the city clerk, within one week after his entering upon the duties of his office.

SECT. 24. All such acts, and parts of acts, as are inconsistent with the provisions of this act, shall be, and the same are, hereby repealed.

SECT. 25. Nothing in this act contained shall be so construed as to prevent the Legislature from altering or amending the same, whenever they shall deem it expedient.

SECT. 26. This act shall be void, unless the inhabitants of the town of Roxbury, at a legal town meeting, called for that purpose, shall, by a vote of a majority of the voters present, and voting thereon, by a written ballot, determine to adopt the same within twenty days from and after its passage.

SECT. 27. This act shall go into operation from and after its passage.

House of Representatives, March 11, 1846.

Passed to be enacted.

SAMUEL H. WALLEY, Jr., Speaker.

In Senate, March 12, 1846.

Passed to be enacted:

W. B. CALHOUN, President.

March 12, 1846—Approved.

GEORGE N. BRIGGS.

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JOSEPH G. TORREY, Printer, 23 Devonshire street, Boston.